

## AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

1 - 42. (CANCELED)

43. (CURRENTLY AMENDED) A method for preparing a synthetic promoter which comprises the steps of:

- a) comparing the sequence of a template promoter with known nucleic acid sequences;
- b) selecting segments of said known nucleic acid sequences similar to segments of the template promoter sequence;
- c) aligning the selected segments ~~in linear order on the bases of the~~ based on homology with the template promoter to derive a first synthetic promoter having between about 60% to about 90% homology over the entire length of the template promoter;
- d) constructing a first synthetic promoter; and
- e) testing the first synthetic promoter for activity.

44. (PREVIOUSLY PRESENTED) The method of claim 43, which further comprises the steps of:

- f) modifying the sequence of the first synthetic promoter which does not have maintained or improved activity compared to the template promoter to produce a second synthetic promoter; and
- g) testing the synthetic promoter for activity.

45. (PREVIOUSLY PRESENTED) The method of claim 44, wherein steps (f) and (g) are repeated one or more times until a synthetic promoter is produced which has maintained or improved activity compared to the template promoter.

46 - 48. (CANCELED)